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AUG 02 2004

In re Application of :
James Dillon :
Application No. 10/650,357 :
Filed: August 27, 2003 :
Attorney Docket No. 5199-5 :

OFFICE OF PETITIONS
DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 19, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No timely extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 20, 2004.

As the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice of November 19, 2003; (2) the petition fee; and (3) the required statement of unintentional delay have been received, the reply is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being referred to the Office of Initial Patent Examination Division for preexamination processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy